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DEPARTMENT OF COMMERCE

International Trade Administration

[C-549-828]

Certain Frozen Warmwater Shrimp from Thailand: Final Negative Countervailing Duty Determination

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (the Department) determines that countervailable subsidies are not being provided to producers and exporters of certain frozen warmwater shrimp (frozen shrimp) from Thailand.

EFFECTIVE DATE: [Insert date of publication in the Federal Register.]

FOR FURTHER INFORMATION CONTACT: Myrna Lobo or Justin Neuman, AD/CVD Operations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2371 and (202) 482-0486, respectively.

Background

The petitioner in this investigation is the Coalition of Gulf Shrimp Industries (Petitioner).¹ This investigation covers 14 government programs. In addition to the Royal Thai Government (RTG), the respondents in this investigation are Thai Union Frozen Products Public

¹ The members of the Coalition of Gulf Shrimp Industries are: Bayou Shrimp Processors, Inc.; Bluewater Shrimp Company, Inc.; Carson & Co., Inc.; C.F. Gollott & Sons Seafood, Inc.; Dean Blanchard Seafood, Inc.; Dominick Seafood; Fisherman's Reef Packing Plant; Golden Gulf Coast Pkg. Co., Inc. (and Gollott's Oil Dock & Ice House); Graham Fisheries, Inc.; Graham Shrimp, Inc.; Gulf Crown Seafood Co., Inc.; Gulf Fish Inc.; Gulf Island Shrimp & Seafood, LLC; Gulf Pride Enterprises, Inc.; Hi-Seas of Dulac, Inc.; Indian Ridge Shrimp Co.; JBS Packing Co., Inc.; Lafitte Frozen Foods Corp.; M&M Shrimp (Biloxi Freezing and Processing); Ocean Springs Seafood Market, Inc.; Paul Piazza & Sons, Inc.; R.A. Lesso Brokerage Co., Inc.; Sea Pearl Seafood Co., Inc.; Smith and Sons Seafood; Tidelands Seafood Co., Inc.; Tommy's Seafood; Vincent Piazza & Sons Seafood, Inc.; Wood's Fisheries; Mariah Jade Shrimp Company, LLC; David Chauvin's Seafood Company, LLC; and Rountree Enterprises, Inc. (dba Leonard & Sons Shrimp Co. and R&R Fisheries).

Co., Ltd. (TUF) and Thai Union Seafood Co., Ltd. (TUS) (collectively, Thai Union), and Marine Gold Products Limited.

Period of Investigation

The period for which we are measuring subsidies, or period of investigation, is January 1, 2011, through December 31, 2011.

Case History

The events that have occurred since the Department published the Preliminary Determination on June 4, 2013,² are discussed in the Memorandum to Paul Piquado, Assistant Secretary for Import Administration, “Issues and Decision Memorandum for the Final Determination in the Countervailing Duty Investigation of Certain Frozen Warmwater Shrimp from Thailand” (Decision Memorandum).³

Scope Comments

On March 28, 2013, Petitioner asked the Department to clarify that the scope of this investigation does not include brine-frozen shrimp.⁴ We have addressed this request and comments thereon in the Memorandum to Paul Piquado, Assistant Secretary for Import Administration, “Certain Frozen Warmwater Shrimp from Ecuador, India, Indonesia, Malaysia, People’s Republic of China, Thailand, and Socialist Republic of Vietnam – Final Scope Memorandum Regarding Onboard Brine-Frozen Shrimp” (Scope Memorandum), which is hereby adopted by this notice.

² See Certain Frozen Warmwater Shrimp From Thailand: Preliminary Countervailing Duty Determination, 78 FR 33350 (June 4, 2013) (Preliminary Determination).

³ Public versions of all business proprietary documents and all public documents are on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). Access to IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Department’s Central Records Unit (CRU), room 7046 of the main Department of Commerce building.

⁴ See Letter from Petitioner, “Countervailing Duty Investigation on Certain Frozen Warmwater Shrimp from Thailand (C-549-828) – Request for Scope Clarification,” (March 28, 2013).

Scope of the Investigation

This investigation covers certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off, deveined or not deveined, cooked or raw, or otherwise processed in frozen form, regardless of size. See Appendix I for a complete description of the scope of this investigation.

Analysis of Subsidy Programs and Comments Received

The subsidy programs under investigation and the issues raised in the case and rebuttal briefs by parties in this investigation are discussed in the Decision Memorandum, which is hereby adopted by this notice. A list of subsidy programs and the issues that parties have raised, and to which the Department has responded in the Decision Memorandum, is attached to this notice as Appendix II.

The Decision and Scope Memoranda are public documents and are on file electronically via IA ACCESS. IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the CRU, room 7046 of the main Department of Commerce building. In addition, complete versions of the Decision and Scope Memoranda can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed and the electronic versions of these memoranda are identical in content.

Final Determination

Company	Subsidy Rate
Thai Union Frozen Products Public Co., Ltd./Thai Union Seafood Co., Ltd.	1.41 percent (<u>de minimis</u>)
Marine Gold Products Limited	1.52 percent (<u>de minimis</u>)

For this final determination, we have calculated de minimis total net countervailable subsidy rates from the individually investigated producers/exporters of the subject merchandise. The All-Others rate is also de minimis.⁵ Therefore, pursuant to section 705(a)(3) of the Tariff Act of 1930, as amended (“the Act”), we have disregarded these de minimis subsidies and we determine that countervailable subsidies are not being provided to producers/exporters of frozen shrimp in Thailand. Because we have reached a final negative determination, we are terminating this investigation. See section 705(c)(2)(A).

Moreover, in accordance with section 705(c)(2)(B) of the Act we will instruct U.S. Customs and Border Protection (CBP) to release any bond or other security and refund any cash deposits that were collected for shipments of subject merchandise entered, or withdrawn from warehouse, on or after June 4, 2013, the date that we instructed CBP to suspend liquidation following the Preliminary Determination. The interest provisions of section 778 of the Act do not apply.

International Trade Commission Notification

In accordance with section 705(d) of the Act, we will notify the International Trade Commission of our determination.

Return or Destruction of Proprietary Information

This notice serves as the only reminder to parties subject to Administrative Protective Order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order

⁵ The All-Others rate was calculated using an average of the investigated companies de minimis rates and it is also de minimis. See section 705(c)(5)(A)(ii) of the Act.

is hereby requested. Failure to comply with the regulations and terms of an APO is a violation that is subject to sanction.

This determination is issued and published pursuant to sections 705(d) and 777(i) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

August 12, 2013
Date

APPENDIX I

Scope of the Investigation

The products covered by this investigation are certain frozen warmwater shrimp and prawns, whether wild-caught (ocean harvested) or farm-raised (produced by aquaculture), head-on or head-off, shell-on or peeled, tail-on or tail-off,⁶ deveined or not deveined, cooked or raw, or otherwise processed in frozen form, regardless of size.

The frozen warmwater shrimp and prawn products included in the scope, regardless of definitions in the Harmonized Tariff Schedule of the United States (“HTSUS”), are products which are processed from warmwater shrimp and prawns through freezing and which are sold in any count size.

The products described above may be processed from any species of warmwater shrimp and prawns. Warmwater shrimp and prawns are generally classified in, but are not limited to, the *Penaeidae* family. Some examples of the farmed and wild-caught warmwater species include, but are not limited to, whiteleg shrimp (*Penaeus vannamei*), banana prawn (*Penaeus merguensis*), fleshy prawn (*Penaeus chinensis*), giant river prawn (*Macrobrachium rosenbergii*), giant tiger prawn (*Penaeus monodon*), redspotted shrimp (*Penaeus brasiliensis*), southern brown shrimp (*Penaeus subtilis*), southern pink shrimp (*Penaeus notialis*), southern rough shrimp (*Trachypenaeus curvirostris*), southern white shrimp (*Penaeus schmitti*), blue shrimp (*Penaeus stylirostris*), western white shrimp (*Penaeus occidentalis*), and Indian white prawn (*Penaeus indicus*).

Frozen shrimp and prawns that are packed with marinade, spices or sauce are included in the scope. In addition, food preparations (including dusted shrimp), which are not “prepared meals,” that contain more than 20 percent by weight of shrimp or prawn are also included in the scope.

Excluded from the scope are: (1) Breaded shrimp and prawns; (2) shrimp and prawns generally classified in the *Pandalidae* family and commonly referred to as coldwater shrimp, in any state of processing; (3) fresh shrimp and prawns whether shell-on or peeled; (4) shrimp and prawns in prepared meals; (5) dried shrimp and prawns; (6) canned warmwater shrimp and prawns; and (7) certain “battered shrimp” (see below).

“Battered shrimp” is a shrimp-based product: (1) That is produced from fresh (or thawed-from-frozen) and peeled shrimp; (2) to which a “dusting” layer of rice or wheat flour of at least 95 percent purity has been applied; (3) with the entire surface of the shrimp flesh thoroughly and evenly coated with the flour; (4) with the non-shrimp content of the end product constituting between four and 10 percent of the product’s total weight after being dusted, but prior to being frozen; and (5) that is subjected to individually quick frozen (“IQF”) freezing immediately after application of the dusting layer. When dusted in accordance with the definition of dusting above, the battered shrimp product is also coated with a wet viscous layer containing egg and/or milk, and par-fried.

⁶ “Tails” in this context means the tail fan, which includes the telson and the uropods.

The products included in the scope of this investigation are currently classified under the following HTSUS subheadings: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30 and 1605.29.10.10. These HTSUS subheadings are provided for convenience and for customs purposes only and are not dispositive, but rather the written description of the scope is dispositive.

APPENDIX II

List of Comments and Issues in the Decision Memorandum

- Comment 1: Whether Benefits under Sections 28 and 31 of the IPA Are Export Contingent or Otherwise Specific
- Comment 2: Whether Tax Exemptions under Section 31 of the IPA Apply to Thai Union's Sales of Shrimp
- Comment 3: Whether Subsidies Received by Thai Union Feedmill Should Be Attributed to Thai Union
- Comment 4: Whether the Calculation of Benefits for Thai Union's and Thai Union Feedmill's Use of Benefits under the IPA Are Correct
- Comment 5: Whether the Tax Coupon Program is Countervailable
- Comment 6: Whether Adverse Facts Available Should be Applied to the "Bank of Thailand Refinancing Program"
- Comment 7: Whether Adverse Facts Available Should Be Applied to Srisubanfarm
- Comment 8: Whether the Price Control on Shrimp Feed Program Is Countervailable
- Comment 9: Whether the "VAT Exemption on Shrimp Feed" Program Is Countervailable
- Comment 10: Whether the Department Should Attribute Subsidies Received by Fresh Shrimp Suppliers to Frozen Shrimp Producers under Section 771B of the Act
- Comment 11: Whether the Department Should Have Examined Thai Royal as a Mandatory Respondent or Calculated an Individual CVD Rate for Thai Royal As a Voluntary Respondent
- Comment 12: Whether the Department Should Investigate Petitioner's Timely Filed New Subsidy Allegations
- Comment 13: Whether the Department Should Continue Not to Countervail Other Alleged Programs
- Comment 14: Whether the Department Should Reduce the Antidumping Duty Cash Deposit Rate Applicable to Imports of the Subject Merchandise by the Amount of Any Calculated Export Subsidies

